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LIZA LAMBERTINI,

LONG ISLAND OFFICE

Plaintiff

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JURY TRIAL DEMANDED

JULIE FAIN

Defendant

LINBSEY, M.

SUMMONS ISSUED

COMPLAINT

Plaintiff, Liza Lambertini (Plaintiff, Liza Lambertini or Senior User), by its

Attorneys, James J. Lillie of LILLIE LAW, LLC, 269 Southport St, Ronkonkoma,

NY 11779, Telephone: 631.580.0437, Fax: 631.580.0107, e-mail:

JLILLIE@LILLIELAW.COM, for its Complaint against Julie Fain (Defendant, Julie Fain or Junior User), allege as follows:

THE PARTIES

- 1. Plaintiff, Liza Lambertini is a citizen of the State of New York, residing in Suffolk County, New York.
- 2. Upon information and belief, Defendant Julie Fain is in individual residing the State of Oklahoma.

- 3. Upon information and belief, Defendant is the owner of Creativity Designs based in Oklahoma, having the interactive website www.creativitydesigns.com.
- 4. Upon information and belief, Defendant is the owner of Ethereal Designs based in Oklahoma, having the interactive website www.etherealwebdesigns.com.

SUBJECT MATTER JURISDICTION

5. This Court has jurisdiction over the subject matter of this action pursuant to the Trademark Laws of the United States, 15 U.S.C. §§1051 to 1127, and the Copyright laws of the United States, 17 U.S.C. §101, et. seq., jurisdiction being conferred in accordance with 15 U.S.C. §1121 Jurisdiction of the Federal Courts, 28 U.S.C. §§ 1331 Federal Question, and 1338 Copyrights, Trademarks and Unfair Competition. The Court has supplemental jurisdiction over the state law and common law claims under 28 U.S.C. §1367(a).

VENUE

6. Venue is proper in this District pursuant to 28 U.S.C. §§1391 and 1400, as Defendant (i) regularly conducts business in this district and/or (ii) a substantial part of the events and claims arose in this district.

PERSONAL JURISDICTION

7. This Court has personal jurisdiction over the Defendant because Defendant, inter alia, transacts business in New York, contracts to supply goods and services within New York, engages in persistent course of conduct within the State, and expects, or should expect their acts to have legal consequences in New York.

FACTS

- 8. Plaintiff, Liza Lambertini began her art career at least as early as the 1990s.
- 9. Plaintiff, Liza Lambertini is the sole creator and copyright owner of various pieces of art featuring fairies.
- Plaintiff has registered many of her works in her portfolio with the U.S.
 Copyright Office. Exhibit A
- 11. Plaintiff owns the website www.faeriewoods.com.
- 12. Plaintiff began showing her works locally and online, and then began selling them both online and via brick and mortar venues, including, inter alia, Plaintiff's website, and on E-bay, Amazon, Etsy.com, and Zazzle.

- 13. Plaintiff has marketed her works, and style of works on, inter alia, LinkedIn, and Facebook.
- 14. Subsequently to Plaintiff's beginning of her career, Defendant began developing works that are substantially similar to plaintiff's copyrights.
- 15. Plaintiff communicated to Defendant the above, and requested that Defendant avoid the substantial similarity of plaintiff's works, including the look and feel of plaintiff's line of works.
- 16. Defendant offers for sale her infringing works on an array of interactive websites, which has been sold to the general public, some without the plaintiff's knowledge, all without authorization, or consent.
- 17. Defendant offers to license her infringing works on array of interactive websites, which has been sold to the general public, some without the plaintiff's knowledge, all without authorization, or consent.
- 18. Plaintiff has purchased several of these items through these websites here in the State of New York, and the items were shipped to a New York address.
- 19. Several of the websites are controlled by the Defendant directly, www.juliefain.com, <a href="https://www.juliefai

- 20. Some of the Defendant's goods are sold on other websites, inter alia, such as Amazon.com, Etsy.com.
- 21. Defendant designs and/or controls websites for third parties throughout the United States, and internationally.
- 22. Defendant has consented to jurisdiction of NY via its account with Etsy.com's, inter alia, Terms & Conditions, wherein Etsy is based in the State of New York.
- 23. Etsy.com lists about eighty (80) pieces of work by the Defendant. Exhibit B

COUNT I

COPYRIGHT INFRINGEMENT

- 24. Plaintiff realleges and incorporates herein by reference the allegations contained in paragraphs 1 though 23 of its Complaint.
- 25. Plaintiff is the owner of the copyright various original and creative works of art, including images, graphic materials, and textural works, as referenced above, presented to the public on its website, on LinkedIn, E-bay, Zazzle, and Etsy.
- 26. The above referenced images, graphic materials, and textural works have never been dedicated to the public.
- 27. Plaintiff is the sole and exclusive proprietor of all rights, title, and interest in and to the above-referenced images, graphic materials, and textural works, including the copyrights therein. Plaintiff has never assigned, or otherwise transferred its exclusive copyright rights or interests therein to the Defendant.
- 28. On information and belief, Defendant, with knowledge of Plaintiff's prior use and /or copyright ownership in the above referenced images, graphic materials, and textural works, has willfully infringed Plaintiff's copyright by copying portions of Plaintiff's works and preparing, reproducing, publishing,

displaying, and distributing such works or derivative works created therefrom, all without Plaintiff's permission, license, or consent.

- 29. As a proximate result of Defendant's actions, Plaintiff has suffered and will continue to suffer great damage to its business, goodwill, reputation, and profits.
- 30. Plaintiff is informed and believes that Defendant intends to continue to infringe Plaintiff'S copyrighted material unless enjoined by this Court.
- 31. Plaintiff has no adequate remedy at law for Defendant's infringement of Plaintiff's copyrights, unless Julie Fain is temporarily, preliminarily, and permanently enjoined, Plaintiff will continue to suffer irreparable harm.

REMEDY REQUESTED

WHEREFORE, Plaintiff Liza Lambertini requests this Court to enter the following relief for Plaintiff against Defendant and its officers, directors, agents, representatives, attorneys, and all persons acting or claiming to act on their behalf or under their direction or authority, and all persons acting in concert or in participation with Defendant:

- 1. Pursuant to 17 U.S.C. §§ 501 and 502, an Order preliminarily and permanently enjoining the further duplication, manufacture, distribution, sale, and license to use, in any manner whatsoever, of any and all products bearing the Plaintiff's copyrighted design or derivative work thereof.
- 2. For an Order requiring Defendant and its distributors to deliver to the Court to be impounded during the pendency of this action, any and all apparel, accessories, flyers, posters, furnishings, webpages, stationary, and any other packaging, advertisements, brochures, promotional items, and the like in their possession or control, which might, if sold or used in conjunction with the sale, distribution, or promotion of any product or service violate any injunction granted herein; and that, at the conclusion of this action, the Court order the infringing materials so held, or otherwise in the possession or control of the Defendant or its agents, or employees, to be surrendered to Plaintiff or to be destroyed pursuant to 17 U.S.C. § 503, whichever shall seem to this Court to be the most just and proper.

- 4. An order restraining and enjoining Defendant, pending trial of this action, from engaging in any of the acts described above, and be directed to conform with each and every provision of this prayer for relief;
- 5. That Plaintiff have an accounting for damages, and Plaintiff seeks the greater of 17 U.S.C. § 504(a)(1) Statutory Damages or §504(a)(2) Actual Damages, and for all profits together with those profits lost by Plaintiff due to Defendant's actions claimed of herein; including enhanced damages due to willful infringement pursuant to 17 U.S.C. § 504.
- 6. That Defendant pay Plaintiff costs and disbursements in pursuing this action, including its reasonable attorneys' fees pursuant to 17 U.S.C. § 505; and

7. That Plaintiff has such other and further relief as this Court may deem just and appropriate.

Respectfully submitted,

LILLIE LAW, LLC
269 Southport St
Ronkonkoma, NY 11779-6222
V: 631.580.0437
F: 631.580.0107
JLILLIE@LILLIELAW.COM
INFO@LILLIELAW.COM

By:

ames J. (Lillie) Esq. (JL1871)

ATTORNEY FOR PLAINTIFF Liza Lambertini

Exhibit A

CERTIFICATE OF REGISTRATION





This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

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REGISTER OF COPYRIGHTS

OFFICIAL SEAL DO NOT WRITE ABOVE THIS LINE, IF YOU NEED MORE/SEACE/RISE of SERVICIAL CONTINUATION SHEET. TITLE OF THIS WORK Y PUBLICATION AS A CONTRIBUTION of this work was published as a contribution to a periodical, serial, or collection, give information about the Title of Collective Work ▼ collective work in which the contribution appeared. If published in a periodical or serial give: Volume ♥ Number ¥ Issue Date V On Pages ♥ NAME OF AUTHOR Y DATES OF BIRTH AND DEATH Year Born ▼ Year Died LIZA AMBERTINI 1966 AUTHOR'S NATIONALITY OR DOMICILE Was this contribution to the work a WAS THIS AUTHOR'S CONTRIBUTION TO work made for hire"? THE WORK e que Citizen of ∏ Yes ☐ Yes Ø No Anonymous? No. Domiciled in Pseudonymous? ☐Yes **②** No NATURE OF AUTHORSHIP - Interfly describe nature of material created by this author in which copyright is claimed. **JOTE** A 340.36 . Under the law, the "author" of NAME OF AUTHOR ▼ DATES OF BIRTH AND DEATH a "work made for hire" is Year Born ♥ Year Died generally the employer, not the employee (see instruc-tions). For any WAS THIS AUTHOR'S CONTRIBUTION TO Was this contribution to the work a **AUTHOR'S NATIONALITY OR DOMICILE** "work made for hire"? THE WORK If the answer to either less que ☐ Yes Citizen of Anonymous? ☐ Yes ☐ No part of this work that was □ No Domiciled in □ Yes Pseudonymous? NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. W "made for hire' check "Yes" in the space

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COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as LAMBERTINI RD. SWAN LAKE NY 12783

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Marybeth Geters

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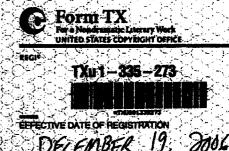
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Marybeth Geters

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Register of Copyrights, United States of America

Marybeth Geters

Registration Number: VAu 990-796

Effective date of registration:

November 13, 2007

Title • Title of Work: CATALOG OF ARTWORK BY ARTIST LIZA LAMBERTINI Nature of Work: Original Art by Liza Lambertini Completion/Publication -Year of Completion: 2007 Author Author: Liza Lambertini Author Created: 2-Dimensional artwork Work made for hire: No Citizen of: United States Year Born: 1966 Pseudonymous: No Anonymous: No Copyright claimant Copyright Claimant: Liza Lambertini 19 Ditmas Ave., Mastic, NY 11950 Limitation of copyright claim Previously registered: No Certification Name: Liza Lambertini Date: November 7, 2007 aring - Distrigonity 14045

Registration #: VAU000990796

Service Request #: 1-28963745

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LIZA LAMBERTINI 19 DITMAS AVE MASTIC, NY 11950-4412



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Register of Copyrights, United States of America

arybeth Geters

Registration Number: VAu 999-344

Effective date of registration:
August 25, 2008

Completion/ Publication	k: Catalog of artwork by Liza Lambertini	
Year of Completion	: 2008	
Author —		
■ Author	: Liza Lambertini	
Author Created	: 2-Dimensional artwork	
Citizen o	: United States	
Year Borr	불러들이 보면서 사용되는 한 번 전환 (1987년)	
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Registration #: VAU000999344

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Liza Lambertini
19 Ditmas Ave
Mastic, New York 11950-4412 United States



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Register of Copyrights, United States of America

Registration Number:

VAu 978-286

Effective date of registration:

September 29, 2008

Title —			
	Catalog of art by Liza Lambertini September 2008		
Completion/ Publication - Year of Completion:			
Author Author:	Liza Lambertini		
Author Created:	2-dimensional artwork		
Citizen of:	United States		
Year Born:	1966		
Copyright claimant Copyright Claimant:	Liza Lambertini 19 Ditmas Ave, Mastic, NY, 11950, United States		
Rights and Permissions	Liza Lambertini		
Email:	worksoflightmagic@yahoo.com	Telephone:	631-281-1428
Address:	19 Ditmas Ave		
	Mastic, NY 11950 United States		
Certification -			
Name: Date:	Liza Lambertini September 23, 2008		
No. 1997	《精神》《各种》:1918年,1918年,1918年,1918年		

IPN#:

Registration #: VAU000978286

Service Request #: 1-131454009

Liza Lambertini 19 Ditmas Ave Mastic, NY 11950 United States



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Register of Copyrights, United States of America

brybeth Geters

Registration Number: VAu 989-908

Effective date of registration:
December 8, 2008

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	Year of Completion:			
Author —	Author:	- Liza Lambertini		
	Author Created:	-2-dimensional artwork		
	Citizen of:	Dimed States 500g		
	Year Born;	-1966 ⁻⁷⁷		
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Registration #: VAU000989908

Service Request #: 1-173642719

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Register of Copyrights, United States of America

Narybeth Peters

Registration Number: VAu 990-970

Effective date of registration:
January 6, 2009

Title of Work:	December 2008 Art Catalog by Liza Lambertini		
Completion/ Publication -	가 있는 것은 하는 가는 가는 것이 가는 것이 없는 것이 없는 것이다. 그런 그는 것이 하는 것이 하는 것이 되었다.		
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Author —			
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Author Created:	2-dimensional artwork		
Citizen of:	United States		
Year Born:	1966		
Copyright claimant -			
Copyright Claimant:	Liza Lambertini		
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Name:	worksoflightmagic@yahoo.com 19 Ditmas Ave Mastic, New York 11950-4412 United States Liza Lambertini	Telephone:	631-281-1428

Registration #: VAU000990970

Service Request #: 1-179483109

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Register of Copyrights, United States of America

Date: March 25, 2009

arubeth teter

Registration Number:

VAu 988-417

Effective date of registration:

March 25, 2009

Title Title of Work: March 2009 Catalog by Liza Lambertini Completion/Publication Year of Completion: 2009 Author Author: Liza Lambertini Author Created: 2-D artwork Work made for hire: No Citizen of: United States Domiciled in: United States Year Born: 1966 Copyright claimant Copyright Claimant: Liza Lambertini 19 Ditmas Ave., Mastic, NY, 11950-4412 Rights and Permissions Name: Liza Lambertini Email: worksoflightmagic@yahoo.com 19 Ditmas Ave. Address: Mastic, NY 11950-4412 Certification WILLIAM TENERAL Name: Liza Lambertini

IPN#:

Registration #: VAU000988417

Service Request #: 1-174239021

Liza Lambertini 19 Ditmas Ave. Mastic, NY 11950-4412

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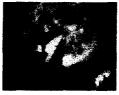
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Unicorn Dreams Large 16x20. .

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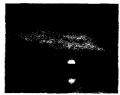
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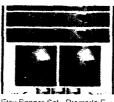


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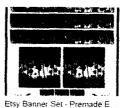




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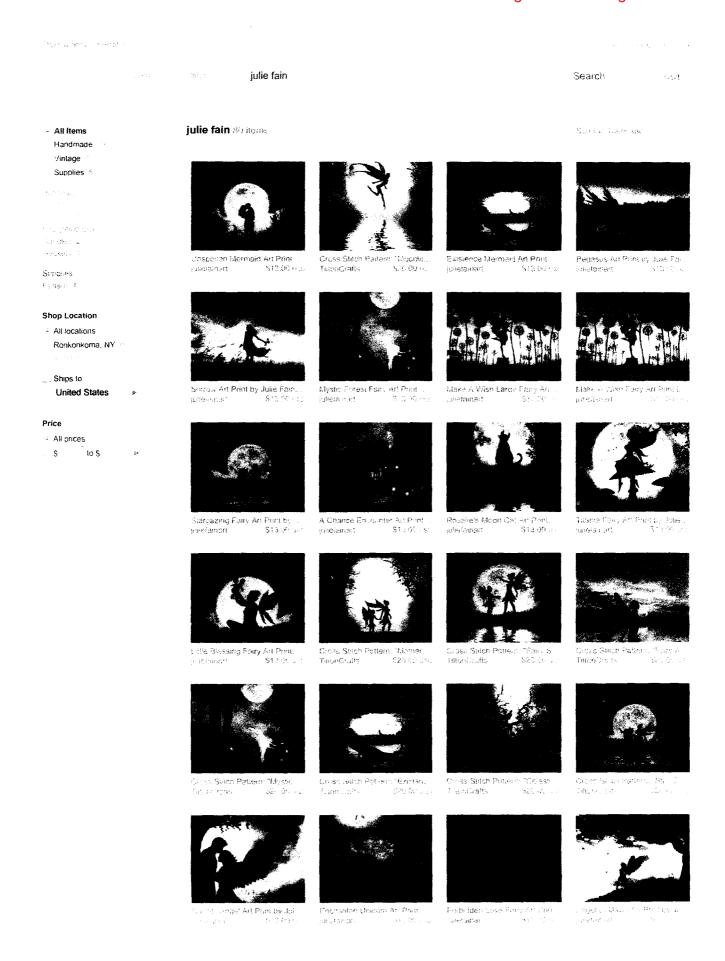
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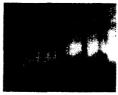
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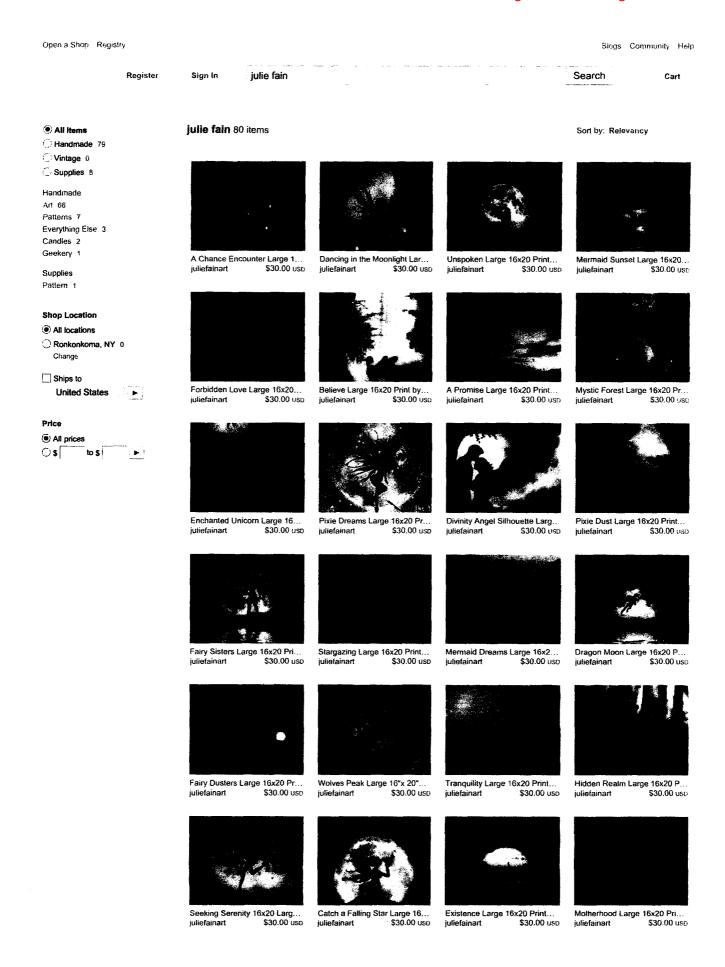
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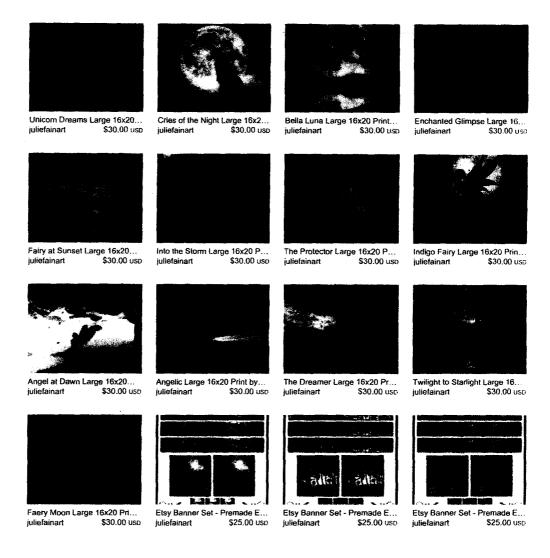
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